



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2011

Ms. Jennifer C. Cohen
Assistant General Counsel
Texas Department of Public Safety
P. O. Box 4087
Austin, Texas 78773-0001

OR2011-07066

Dear Ms. Cohen:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 420151 (ORA# 11-0826).

The Texas Department of Public Safety (the "department") received a request for all documentation of video review on supervisor's weekly reports and field observation check ride evaluations for a named officer during a specified time period. You state you are withholding the requested weekly reports pursuant to Open Records Letter No. 2010-12863 (2010), a previous determination authorizing the department to withhold personnel records of commissioned officers of the department under section 552.101 of the Government Code in conjunction with section 411.00755 of the Government Code. *See* Gov't Code § 411.00755(b)(1)-(12), (c); *see also id.* § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information other statutes make confidential. Section 411.00755 of the Government Code states in pertinent part:

(b) The personnel records of a commissioned officer of the department may not be disclosed or otherwise made available to the public, except the department shall release in accordance with Chapter 552:

...

(6) any periodic evaluation of the officer by a supervisor;

...

Id. § 411.00755(b). Section 411.00755 defines a personnel record, in part, as “any letter memorandum, or document maintained by the department that relates to a commissioned officer of the department[.]” *Id.* § 411.00755(a). You indicate the submitted information consists of the named officer’s personnel records. However, we find the submitted records include the type of information listed in subsections 411.00755(b)(1)-(12). In this instance, the submitted Performance Evaluation Reports and Performance Observation Checklists consist of periodic evaluations of the officer by a supervisor. This information is subject to subsection 411.00755(b)(6). The Performance Evaluation Reports and Performance Observation Checklists may not be withheld under section 411.00755 and are not encompassed by the previous determination issued to the department in Open Records Letter No. 2010-12863.

We note portions of the submitted information are subject to section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1), (2). Thus, the department must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.¹ The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

¹We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Alvarado". The signature is fluid and cursive, with the first letter "C" being large and prominent.

Christina Alvarado
Assistant Attorney General
Open Records Division

CA/eb

Ref: ID# 420151

Enc. Submitted documents

cc: Requestor
(w/o enclosures)